

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HANDSCHU,

PLAINTIFF,

-against- 71CIV.2203
 (CSH)

SPECIAL SERVICES DIVISION,

DEFENDANT.

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100 Church Street
New York, New York

June 28, 2012
10:30 a.m.

EXAMINATION BEFORE TRIAL of a
non-party witness, THOMAS GALATI, taken by
the respective parties herein, pursuant to
order, held at the Offices of The New York
City Law Department, 100 Church Street, New
York, New York, before a Notary Public of
the State of New York.
the State of New York.

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A P P E A R A N C E S:
PROFETA & EISENSTEIN, ESQS.
Attorneys for the Plaintiff
45 Broadway, Suite 2200
New York, New York 10006
BY: Jethro M. Eisenstein, Esq.

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL
Attorneys for the Defendants
100 Church Street
New York, New York 10007-2601

BY: Peter G. Farrell, Senior Counsel
Special Federal Litigation Division
Also Present: Alexis Leist
Arthur Eisenberg
Paul G. Chevigny
Martin R. Stolar
Franklin Siegel

ALSO PRESENT:
New York Police Department
Steve Colon
Stuart Parker
Thomas Doepfer
THE NEW YORK CITY LAW DEPARTMENT:
Celeste Koelveld
Natalya Fadayeveva

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T. Galati

T H O M A S G A L A T I, called as a
witness, having been first duly sworn by a
Notary Public of the State of New York, was
examined and as follows:

MR. EISENSTEIN: I want to put on
the record part of the terms in which
this deposition is being conducted.

We have agreed that the entire
deposition is confidential for 30 days
after delivery of the transcript to the
defendants.

So that, you, Peter have the
opportunity to review the transcript to
determine what, if anything, you and
your client feel needs to be kept
confidential.

30 days after delivery of the
transcript, you will identify any
portions you want sealed. If there is
agreement about sealing, those portions
will be sealed. If plaintiff's counsel
disagrees, the matter is to be submitted
to the court and the portions you have

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designated are under a protective order pending a decision. That pending a decision on your request, that it be sealed.

If a part wishes to append the portion of the deposition transcript to its court's submission, the filing will be done under protective order setting forth a procedure for determining whether the attachment itself shall be sealed and disclosed, outlined in *Lugosch, L-U-G-O-S-C-H versus Pyramid Company* 435F3D110 second circuit 2006.

First of all, I'd like to ascend that that's the agreement that we have made.

MR. FARRELL: I concur that the agreement regarding confidentiality I have one question about. I'd like to add, the confidentiality where the five attorneys in the room are not to be disclosed. That's what we mean by confidentiality. You agree?

MR. EISENSTEIN: Correct.

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MR. FARRELL: We had agreed that we would in 30 days look at the transcript. You and I had a discussion. If I needed additional time to do the review so I would ask that it come 30 days, I will be in contact with you. Rather than having a trigger, put the transcript on the internet, at least we can confer on that point.

MR. EISENSTEIN: Peter, we initially agreed 30. That's fine. If you call prior to the 30 days, you're in the middle of a trial. I'm not going to disclose it.

If you're otherwise unable to make the decision, we're not going to disclose it. On the other hand, we expect your good faith about not letting that process go on indefinitely.

MR. FARRELL: That I concur with upon receiving the transcript. The only part I wasn't sure about is, if there's a disagreement over sealing that part that we want to remain confidential.

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Did you in your recitation put the burden on one of us in particular?

MR. EISENSTEIN: Yes, I thought we had agreed that the presumption is to be disclosed. In other words, we started out and plaintiffs did not agree that the presumption was going to be confidential. Because the presumption is to be disclosed, you're the ones that are pushing the rock up the hill about sealing it.

In other words, unless you prevail in persuading the court that the section needs to be sealed, then it would be disclosed. Presumption is disclosure, presumption of confidentiality. Look at our exchange of letters. That was one of the things which clearly in my view we agreed upon.

MR. FARRELL: I'll reserve my right to look at that. I'm not going to take issue on that. I want to add that this deposition is pursuant to an agreement between the parties to conduct

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some voluntary discovery in response to
counsel's motion of, I believe it is,
October of 2011, and that voluntary
discovery is set out. The parameters
are set out in letter and e-mail
correspondence between counsel for the
parties and specifically there are at
least five letters that are set out.

The dates are January 3rd, 2012,
January 24, 2012. February 2nd, 2012,
February 29, 2012 and March 30, 2000 the
1, 12 March 3 0, 2012.

While we call this voluntary
discovery, we have also reserved our
rights regarding the duration of the
deposition and that's set forth in those
correspondence.

Finally, I would like to request
review and in signing as contemplating
under federal rules civil procedure 30
rules 30E, which is a separate request
other than or in addition to the 30-day
review for the confidentiality.

MR. EISENSTEIN: I don't think we

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would have an objection to signing, but if review in signing is going to extend the period during which we have agreed to keep it confidential, that is certainly not something that we had discussed. I don't see any reason why the review for the purpose of signing can't go on concurrently with your review.

I'm not sure whether you're suggesting that that is an additional period of time.

MR. FARRELL: I wasn't addressing the time period right now. What I was addressing was, in addition to having the ability to deem things confidential, I explicitly want the right to review as contemplated under the federal rules. That's usually done as a review and signing of the transcript under Federal Rule 30, Subsection E.

MR. EISENSTEIN: If all you're saying is you want to invoke 30E, this

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T. Galati

is a deposition in an action pending in the United States District Court for the Southern District of New York.

It's governed by the federal rules. I don't know what else to say about that.

You're invoking a rule which exists and applies to any deposition as far as I'm concerned. You can either waive reviewing and signing or they can insist in reviewing and signing.

On behalf of Chief Galati, you are insisting on reviewing --

MR. FARRELL: Yes, we have that right.

MR. EISENSTEIN: Anything else?

MR. FARRELL: No, that's all that I have.

EXAMINATION BY

MR. EISENSTEIN:

Q With that introduction, good morning. My name is Jethro Eisenstein. I'm one of the attorneys for the plaintiff in the Handschu case. Chief, have you had your

1 T. Galati

2 deposition taken before?

3 A I have had depositions taken
4 before, yes.

5 Q I just want to review a couple of
6 rules: The court reporter sitting to your
7 left is going to take down every word that
8 you say and every word that I say. Do you
9 understand that?

10 A Yes.

11 Q Do you understand the oath that
12 you take to tell the truth is the same oath
13 that you take in court?

14 A Yes.

15 Q Do you agree to answer the
16 questions out loud with words because the
17 court reporter can't take down nods of the
18 head?

19 A Yes.

20 Q I'm going to ask you to wait
21 until I finish a question so that we get a
22 clean record. Sometimes it's hard to
23 discipline oneself, but if you wait until
24 I'm done, she gets the question and then the
25 answer and we have a clean record. Okay?

1 T. Galati

2 A Yes.

3 Q If I ask you a question that is
4 not clear to you, please don't guess at my
5 question, just tell me you don't understand
6 and I'll ask the question in a different
7 way. Okay?

8 A Yes.

9 Q Are you employed by the New York
10 City Police Department?

11 A Yes, I am.

12 Q What is your current rank and
13 command?

14 A I am an Assistant Chief. I am
15 the Commanding Officer of the Intelligence
16 Division.

17 Q How long have you been employed
18 by the New York City Police Department?

19 A This July will complete 28 years.

20 Q How long have you held your
21 current rank?

22 A My current rank, I believe I'm in
23 four years, three or four years.

24 Q How long have you been assigned
25 to the Intelligence Division?

1 T. Galati

2 A Since September of 2006.

3 Q What positions have you held in
4 the Intelligence Division?

5 A I've always been the commanding
6 officer of the Intelligence Division.

7 Q Have you held the position of
8 supervisor in other commands in the police
9 department?

10 A Yes, I have.

11 Q What other commands and what
12 supervisory divisions? You don't have
13 sergeant. Let's just say lieutenant and
14 above.

15 A It may be easier if I go
16 backwards.

17 Q Go backwards.

18 A I'm presently the commanding
19 officer of the Intelligence Division. Prior
20 to that, I was the commanding officer of the
21 gang division. Prior to that, I was the
22 commanding officer of the 46th Precinct.

23 Prior to that, I was the
24 commanding officer of the 47th Precinct.

25 Prior to that, I was the

1 T. Galati

2 commanding officer of the Bronx Anticrime
3 Unit. Prior to that, I was the commanding
4 officer of the Bronx Tracer Unit and prior
5 to that, I was a lieutenant and I was
6 assigned to the Street Crime Unit.

7 Q What is your formal educational
8 background?

9 A I have a bachelors from Empire
10 State. I've also had other certificate
11 programs from the Harvard Kennedy School and
12 the police management of Columbia
13 University.

14 Q What were those certificate
15 programs in?

16 A Harvard Kennedy School was for
17 state and local -- I can't think of the name
18 of the actual program, but it was for state
19 and local. Not law enforcement, it was for
20 municipal, I guess.

21 Q But, it's related to law
22 enforcement?

23 A No, it's related to many
24 different issues.

25 Q And the Columbia University

1 T. Galati

2 program is?

3 A A business school for police

4 executives.

5 MR. EISENSTEIN: Off the record.

6 (A discussion was held off the

7 record.)

8 Q Did you review any documents in

9 preparation for this deposition today?

10 A Yes.

11 Q What did you review?

12 A I reviewed the police

13 department's Handschu Guidelines and I did

14 look through some material that was provided

15 to me, I believe the same material that you

16 have. I did parous.

17 Q The material, the Zone Assessment

18 Unit reports?

19 A Yes.

20 MR. EISENSTEIN: Would you mark

21 this as Exhibit 1 for today's date.

22 (Plaintiff's Exhibit 1, a

23 document, was marked for identification,

24 as of this date.)

25 Q Chief, I'm showing you what had

1 T. Galati

2 been marked as Plaintiff's Exhibit 1. Do
3 you recognize this document?

4 A I do recognize this document.

5 Q Can you tell us who prepared this
6 document?

7 A I cannot tell you who prepared
8 this document. I seen this document for the
9 first time when it was published in the AP
10 Article.

11 Q Do you know whether it is a
12 document that was prepared within the New
13 York City Police Department?

14 A I can't tell you definitively
15 that it was prepared by someone in the
16 police department. It appears to have the
17 police department's logo on it, but I have
18 been unable to find who authorized it and
19 find it in any of my records or the
20 department's records.

21 Q When it was published by the AP
22 Article, did you inquire about the origins
23 of this document?

24 A Yes.

25 Q Am I to understand that you were

1 T. Galati
2 not able to find anybody in the Intelligence
3 Division who knew what the origins were?

4 A Yes.

5 MR. EISENSTEIN: Can you mark
6 this as Exhibit 2?

7 (Plaintiff's Exhibit 2, a
8 document, was marked for identification,
9 as of this date.)

10 Q Do you recognize this document?

11 A Yes.

12 Q Can you identify what this
13 document is?

14 A This is a section out of the
15 police department's organizational guide.

16 Q Is the first page of it an
17 organizational chart for the Intelligence
18 Division as of 2/15/08?

19 A Yes, 2/8/08.

20 Q Sorry, 2/8/08. The Demographics
21 Unit, would that name exist at the present
22 time in the New York City Police Department?

23 A Not at the present time.

24 Q The Zone Assessment Unit was
25 formerly known as the Demographics Unit?

1 T. Galati

2 A Yes.

3 Q When did the change from
4 Demographics Unit to Zone Assessment Unit
5 occur?

6 A I couldn't give you an exact
7 date, but I believe it was sometime in 2010.

8 Q What was the reason for the
9 change of name?

10 A It was a different way that we
11 wanted to look at deployment. We were
12 breaking up deployments into zone, so that
13 could correspondence with an analyst who
14 also had a zone deployment.

15 Q When it was called the
16 Demographics Unit, who did the Demographics
17 Unit report to?

18 A Clarify your question. Direct
19 report?

20 Q Yes. Who did the Demographics
21 Unit operatives directly report to?

22 A The people assigned to the
23 Demographics Unit reported to a sergeant,
24 sergeants actually in the Demographics Unit.

25 Q In turn, who did they report to?

1 T. Galati

2 A The sergeants reported to a
3 lieutenant.

4 Q Was the lieutenant in the
5 Demographics Unit?

6 A The lieutenant would oversee more
7 than the Demographics Unit. He would
8 oversee other units as well.

9 Q What other units did the
10 lieutenant oversee?

11 A Its changed over the years. I'm
12 not exactly positive. Presently, I believe
13 he oversees the Citywide Debriefing team and
14 the Demographics team, the zone assessment
15 team, and I think that's all he oversees
16 right now. It may have been different at
17 different times.

18 Q You're talking about now when
19 it's called the Zone Assessment Unit, right?

20 A Yes.

21 Q Was that different when it was
22 called the Demographics Unit in terms of the
23 lieutenant?

24 Who did the lieutenant supervise?
25 Were one of the things he or she was

1 T. Galati

2 supervising was the Demographics Unit, also
3 Citywide Debriefing?

4 A The lieutenants have been
5 assigned to different people at different
6 times. I am not exactly positive what other
7 ones. I believe -- I don't want to guess
8 what ones they were. We switched it.

9 Q Are there persons assigned to the
10 Demographics Unit? Withdrawn.

11 Were there persons assigned to
12 the Demographics Unit who were referred to
13 as Rakers?

14 MR. FARRELL: Objection.

15 A The first time when I heard the
16 Rakers is when the AP Articles came out.
17 However, I believe the term would be the
18 people assigned within then Demographics,
19 Zone Assessment Unit.

20 Q Were there persons within the
21 Demographics Unit who were referred to as
22 mosque crawlers?

23 MR. FARRELL: Objection.

24 A Again, the term mosque
25 crawlers -- the first time I ever heard that

1 T. Galati
2 was from the AP Article. I've never heard
3 anyone in the division reference mosque
4 crawlers.

5 As I mentioned, Rakers two, that
6 term I've been assigned to since 2006 and
7 I've never heard that term being used other
8 than when it came out in the AP Articles.

9 Q Are the persons, who have been
10 assigned to the Demographics Unit and then
11 to the Zone Assessment Unit, members of the
12 New York City Police Department?

13 By members, I mean graduates of
14 the police department, police academy
15 assigned to shield and tax ID number.

16 A Yes, they were sworn members of
17 the NYPD.

18 Q What formal training have the
19 persons had, the members of the NYPD
20 assigned to the Demographics Unit?

21 Let me break it down. What
22 formal training did members of the NYPD,
23 assigned to the Demographics Unit, receive
24 before being deployed in the Demographics
25 Unit's activities?

1 T. Galati

2 MR. FARRELL: Objection.

3 A There's a lot of training that
4 officers get when they are in the academy
5 and outside of the academy during the course
6 of their career, you know. You're asking
7 for a specific time?

8 Q Let me be more specific. I'm
9 asking about the training received by
10 members of the force who were assigned to
11 the Demographics Unit.

12 I'm asking about the training
13 received by members of the force who were
14 assigned to the Demographics Unit before
15 they were deployed in their capacity as
16 members of the Demographics Unit.

17 In other words, training
18 specifically to the tasks that they would be
19 undertaking as members of the Demographics
20 Unit?

21 A Well, members of the Demographics
22 Unit/Assessment Unit receive training that
23 we give every year. We go to an annual
24 training, more specifically to their
25 assignments.

1 T. Galati

2 They are given Handschu training
3 based on the Handschu Guidelines that is
4 provided by the legal team that we have
5 assigned to the Intelligence Division.

6 Q Is there written material
7 provided to them in connection with the
8 Handschu training?

9 A The Handschu Guidelines which is
10 in the patrol guideline, written material.
11 I believe the other training does not have
12 any other handouts other than the Handschu
13 Guideline.

14 Q Before being deployed as members
15 of the Demographics Unit or the Zone
16 Assessment Unit, do they receive any other
17 training detailing what they are expected to
18 do?

19 A Yes, we do inform them. If you
20 want to call it a specific training, we do
21 inform them about things that they should
22 do. Yes, I don't want to call it official
23 training, if that's what you're asking for.

24 Official is not the word I'm
25 looking for. They are instructed on what

1 T. Galati

2 they should do.

3 Q Who issues the instructions to
4 them about what they are to do?

5 A Their instructions would come
6 from their direct supervisor. Their
7 instructions could come from me. I do know
8 that our legal counsel has sat down with the
9 entire unit at one point, so instructions
10 has come from our legal council.

11 Q Have you personally had
12 interaction with the members of the force
13 who were assigned to the Zone Assessment
14 Unit?

15 I can call it that and you'll
16 tell me if the answer would be different
17 than when it was the Demographics Unit;
18 okay?

19 A Yes.

20 Q Have you personally issued
21 instructions to members of the Zone
22 Assessment Unit?

23 A I would say I have personally
24 issued instructions, but I may have done it
25 through a chain of command. I would direct

1 T. Galati

2 something and then it would be given down to
3 the ranks, to them.

4 Q What were the members of the Zone
5 Assessment Unit told that they are to do?
6 What are the instructions that are given to
7 them?

8 MR. FARRELL: Objection.

9 A It's a broad statement. If
10 you're asking me what their duties and
11 responsibilities are, I don't know what your
12 question is.

13 Q Okay. What are the duties and
14 responsibilities of the members of the Zone
15 Assessment Unit?

16 A The function of the Zone
17 Assessment Unit is to -- let me begin by
18 saying that in the beginning of the Zone
19 Assessment Unit, the function of the Zone
20 Assessment in the post 911 time was to go
21 out and go through the different communities
22 in New York City and help us identify
23 different communities that would be
24 considered communities that have people that
25 live in it from countries of concern.

1 T. Galati

2 Q How were they told to go about
3 identifying such people?

4 A Well, as I said, this is directly
5 after 911, and countries that are concerned
6 were identified based on the 911 attack and
7 other attacks that happened throughout the
8 world, the people who committed those
9 attacks;

10 Islamics that have been
11 radicalized through violence that committed
12 those came from countries. Those countries
13 were identified. The Demographics Unit were
14 to go out to communities and tell us if
15 these communities represented the same
16 countries of concern where these Islamic
17 radicles came from.

18 Q Take a look at Exhibit 1. On the
19 fifth page, there's a page headed ancestries
20 of interest.

21 A Yes.

22 Q Does that correspond to the
23 communities that you were sending people out
24 to look into?

25 MR. FARRELL: Objection.

1 T. Galati

2 A Are you asking me if this
3 corresponds to the countries of concern?

4 Q Correct.

5 A I would say that most of them
6 here do, but not all. Yugoslavia is no
7 longer a country. Chechnya is part of
8 Russia.

9 Most of the other countries
10 themselves are at Akkrat and American black
11 Muslim is not a country.

12 Q Take a look at page five of
13 Exhibit 2. I'm looking at the paragraph on
14 page five on Demographics Unit.

15 Was it a function of the
16 Demographics Unit to develop a comprehensive
17 analysis and understanding of the
18 demographics trend throughout New York City?

19 A I don't believe that is one of
20 their functions. They are not analysts, so
21 they are not trying to analyze, but, yes,
22 they are supposed to understand the trend,
23 the demographics trend in the city.

24 Q What does that mean, demographics
25 trend? What's your understanding of that

1 T. Galati

2 phrase?

3 A When the Demographics Unit
4 started, it was started with, you know,
5 terrorism in mind, post 911. At that point,
6 nobody knew where the next attack was
7 coming.

8 All we knew was, there had been
9 people from countries of concern that
10 committed this attack. In order to fight
11 terrorism, we needed to know where people
12 lived from countries of concern that could
13 either recruit, hide or secrete themselves
14 in these communities that were radicalized
15 towards violence and we needed to know where
16 they were, to identify those countries of
17 concern, to find those people that were
18 radicalized towards violence.

19 Q That's your understanding of the
20 phrase demographic trends?

21 A Yes.

22 Q That's what their function is?

23 A Yes.

24 Q Were members of the Demographics
25 Unit also to conduct investigations and

1 T. Galati

2 gather intelligence information as directed?

3 A Based on the Handschu Guidelines,
4 the term investigations means the gathering
5 of information. So, based on the Handschu
6 Guidelines, I would say that that is
7 correct. As far as the police department's
8 terminology that I use in investigation,
9 they do not conduct investigations, they
10 gather information.

11 Q When you say the terminology that
12 you use about investigations, what is in
13 your terminology? What is an investigation?

14 A In traditional department
15 terminology of what an investigation is,
16 there's a crime or a person that is being
17 investigated because crime is committed, and
18 we have to find out who did this crime.

19 Or, we have information that the
20 crime will be committed and we're going to
21 conduct an investigation on that crew. That
22 is what an investigation is. An
23 investigation could be from a car accident.
24 An investigator has to investigate how the
25 car accident occurred.

1 T. Galati

2 That's how I understand the term
3 of an investigation from traditional
4 department terminology.

5 Q Do I understand you to be saying
6 that using that terminology "Demographics
7 Unit" was not to engage in investigations,
8 as you just defined it?

9 A The demographic's
10 responsibilities was to collect information
11 on areas so that we can identify countries
12 of concern, where people that were being
13 radicalized towards violence, Islamics
14 radicalized towards violence.

15 Q Was the function of the members
16 of the force assigned to the Demographics
17 Unit to make assessment regarding the
18 potential for World events to impact upon
19 local communities?

20 A I don't believe it's their job to
21 make an assessment. However, through the
22 rest of the Intelligence Division, we
23 monitor World events.

24 If World events dictated that a
25 particular area may become more of a

1 T. Galati

2 concern, then the Demographics or assessment
3 unit would go to that general area.

4 Q Was it in connection with that
5 activity that you just described? Was it
6 their job to collect information about how
7 World events were impacting local
8 communities for the analyst to analyze?

9 A I would say that if there was an
10 event in the world that resulted in some
11 type of violence or disruption, anywhere in
12 the World or within the state that was
13 related to terrorism activity, yes, they
14 would go.

15 They would basically see if it's
16 going to have any implications in New York
17 City.

18 Q Would it be fair to say that
19 their job was to see whether people were
20 talking about it and how people were talking
21 about it?

22 MR. FARRELL: Objection.

23 A Their job was, if they hear
24 people talking about it, you know, they
25 should inform us. If what they're hearing

1 T. Galati
2 is hostility towards the United States or to
3 the general public at large, you know, as a
4 result of these events, would something
5 happen here as a result? Their job is to
6 listen for that.

7 Q You used the word hostility
8 towards the United States. I want to make
9 sure that I don't misunderstand you.

10 A lot of people talk. They don't
11 like what's going on, what this person is
12 doing, they don't like what the United
13 States is doing.

14 Are you talking as broadly as the
15 hostility in the United States, in the sense
16 of expressions of opinions that were
17 contrary to the policies of the United
18 States --

19 MR. FARRELL: Objection.

20 Q -- or objected to the policies of
21 the United States?

22 A I would say that it doesn't even
23 have to involve the United States at all;
24 its general policing to prevent violence.

25 There is plenty of strength in

1 T. Galati

2 Pakistan where there's violence between shia
3 muslims and sunni muslims.

4 There's violence between these
5 two sections of the religion. It could
6 escalate and happen here. It doesn't have
7 to necessarily relate to the United States
8 itself.

9 It could have just the general
10 public or within that community itself.
11 It's a Pakistani community. It could be
12 among Pakistani to each other.

13 It's broader than hostility
14 towards the United States, hostility in the
15 community.

16 Q Were members of the force
17 assigned to the Demographics Unit instructed
18 to bring back information about expressions
19 of opinion whether or not they related to
20 violence or potential violence?

21 A Say the question again.

22 Q What I'm trying to find out is,
23 were the instructions given to them to
24 report back about what they were hearing
25 broad enough?

1 T. Galati

2 For example, to call for them, to
3 report back? Let me just give you an
4 example about someone commenting to another
5 person from his community about the state of
6 the union message delivered by President
7 Bush.

8 MR. FARRELL: Objection.

9 A I guess I would have to see that
10 comment. I would have to see what that
11 comment is to make a determination.

12 It's not something that they
13 should bring to us. It depends on the
14 context, it depends on the time, it depends
15 on who is talking about it. I couldn't
16 answer that question.

17 Q Fair enough. Since the
18 instructions have to be given before going
19 out, what I'm trying to get from you is
20 whether the instructions were as broad as
21 simply telling us what you hear, whatever it
22 is or were they limited in any fashion by
23 the instructions that came from you through
24 the chain of command?

25 Were they limited in any fashion

1 T. Galati

2 or were they, just to be clear, bringing
3 back everything you hear?

4 MR. FARRELL: Objection.

5 A No, their instructions were not
6 to go and bring back every conversation that
7 they heard. That's not what their
8 instructions were.

9 Q What was given to them in way of
10 instructions to guide their judgement about
11 what to bring back?

12 MR. FARRELL: Objection.

13 MR. EISENSTEIN: He says that
14 for a reason, but it doesn't mean you
15 should answer. He'll be very clear if
16 it's something he doesn't want you to
17 answer.

18 A A lot of conversation that has
19 been brought back has value. On the
20 surface, it may seem valuable. Overall
21 conversation may relate to where people are
22 at that particular location, you know. To
23 get a little bit deeper, I think that a
24 conversation overheard by people in the
25 Lebanese cafe may indicate to us that they

1 T. Galati

2 are from South Lebanon or North Lebanon.

3 Although it may seem not
4 important when analysts look at it, an
5 analyst can understand that a particular
6 town that was mentioned in a conversation
7 may be in South Lebanon.

8 That may be an indicator of
9 possibility that that is a sympathizer to
10 Hezbollah because Southern Lebanon is
11 dominated by Hezbollah.

12 Q I understand what you're saying.
13 A lot of stuff can be a risk, useful
14 information. What I'm trying to find out
15 is, somehow or another, the people assigned
16 to the Demographics Unit or the Zone
17 Assessment Unit are being asked to
18 distinguish between what they should report
19 about and what they shouldn't be reporting
20 about. They have to make some judgements
21 about what to report about, correct?

22 A Yes. I would have to say they
23 would make some suggestions.

24 Q What are given by way of
25 instructions to help guide their use of

1 T. Galati

2 their judgement about what to report about?

3 A If we deployed them because of an
4 event that took place in a particular part
5 of the World, a drone attack, we would want
6 to know and we would instruct them that
7 people are upset about this drone attack.

8 If they are, that's something
9 that would be important for us to know, that
10 would be something we would want to know.

11 If they were talking about something that
12 would help us identify what religion or what
13 type of people they are from the country of
14 concern that we're trying to identify, that
15 would be something that we would want them
16 to report.

17 So, it's twofold. If there's a
18 reaction to something or if it's going to
19 help us, their main purpose is just to help
20 us identify where in the city we would find
21 people from some countries of concern, that
22 Islamics radicalized towards violence would
23 hide or recruit.

24 Q I understand what you're saying
25 about telling us everything you hear about a

1 T. Galati

2 drone attack, for example.

3 If there isn't a specific event
4 that has occurred, are general instructions
5 given to help guide their judgement about
6 what information to bring back?

7 MR. FARRELL: Objection.

8 A Their main function is to
9 catalogue those locations so we can
10 understand what countries of concern they're
11 from, their observations and overheard
12 conversations.

13 When they are not deployed in
14 relation to an event, should they hear an
15 overheard conversation that I would
16 consider, and I'll use the word alarming or
17 aggressive. Those kinds of conversations we
18 would want them to bring back.

19 Q Was it part of the job of members
20 of the force assigned to the Demographics
21 Unit to analyze religious institutions,
22 locations or congregations?

23 MR. FARRELL: Objection.

24 A The Zone Assessment Unit/
25 Demographics Unit does not do any analytical

1 T. Galati
2 work when it comes to what their function
3 is. They have identified religious
4 institutions to the extent that we can
5 understand what country or countries of
6 concern would go to those particular
7 locations.

8 Q Have they identified those
9 locations by going to them?

10 MR. FARRELL: Objection.

11 A Yes. Are you asking me -- can
12 you rephrase the question?

13 Q Have members of the force, who
14 are assigned to what's now called the Zone
15 Assessment Unit, visited religious
16 institutions, congregations?

17 MR. FARRELL: Objection.

18 A Let me state that, since I'm here
19 in 2006, members of the Demographics Unit,
20 it is our practice and policy that they do
21 not go into religious institutions unless
22 there's a need to because we have to
23 identify what type of institutions.

24 It's not always readily available
25 from the outside. However, we prefer that

1 T. Galati
2 they do it from the outside, if possible.
3 However, when 911 happened and then this
4 unit stood up and we had to understand a
5 little bit more and gain knowledge, it was
6 necessary to go inside those locations in
7 order to determine what type of congregation
8 it was and what people, from what countries
9 of concern would be there.

10 So, for identification reasons
11 early on, they did go into some of those
12 locations. It is not their normal practice
13 and it is not their practice today.

14 Q When you say early on, are you
15 talking about things that occurred prior to
16 your being in the Intelligence Division?

17 A Yes, I'm talking about early on
18 when the Demographics Unit was first
19 deployed.

20 Q Were those activities, religious
21 institutions going on when you became
22 commander of the Intelligence Division?

23 MR. FARRELL: Objection.

24 A As I stated, I came in 2006 and
25 that is not our normal practice or policy.

1 T. Galati

2 I cannot definitively tell you that it has
3 never happened if it is a new location, a
4 new mosque that we have never seen before.

5 That is not readily available
6 based on signs. They may have. It is not
7 our policy nor is it our practice to have
8 them do that.

9 When I said early on, I am going
10 back to the original starting point of the
11 unit, when it was necessary to first really
12 determine what kind of location it was.

13 MR. EISENSTEIN: Can you mark
14 this as Exhibit 3.

15 (Plaintiff's Exhibit 3, a
16 document, was marked for identification,
17 as of this date.)

18 Q I've handed you what's been
19 marked as Plaintiff's Exhibit 3. My
20 question is, do you recognize this document?

21 MR. FARRELL: Off the record.

22 (A discussion was held off the
23 record.)

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2 The question is open-ended and
3 you aren't putting it within that
4 framework. To the extent that your
5 answers call for something beyond that,
6 that's where I have an objection and I'm
7 instructing the witness not to answer.

8 MR. CHEVIGNY: Wouldn't mosques
9 be considered places open to the public?

10 MR. FARRELL: I can consult with
11 the witness to respond.

12 MR. EISENSTEIN: Let me make it
13 clear. I understand what this
14 deposition is about. I'm trying to find
15 out whether using that power under the
16 Handschu Guidelines are identified in
17 882, I'm trying to guess how many
18 mosques have been visited and my way
19 into that which is perfectly
20 appropriate.

21 I haven't gone into anything
22 that's outside the scope of what I was
23 going to be asking about in my view.

24 MR. FARRELL: Hypothetically,
25 there's a possibility that mosques were

1 T. Galati

2 visited, not under 882, but pursuant to
3 an authorized Handschu investigation.

4 To answer that question, it's not
5 making a distinction.

6 MR. EISENSTEIN: You said it's
7 hypothetical. To find out how that is
8 so, ask the witness.

9 MR. FARRELL: I need to confer
10 with the witness.

11 A The Demographics Unit has
12 identified mosques throughout the city and
13 the ethnic community or communities that
14 would go to that mosque. What the exact
15 number is, I couldn't tell you the exact
16 number.

17 Q Was the Demographics Unit tasked
18 with identifying mosques around the city
19 when the unit stood up, as you said?

20 A Yes.

21 Q Do you know when the Demographics
22 Unit was formed?

23 A I don't have an exact date, I'm
24 going to say early in 2003 sometime.

25 Q Did members of the Demographics

1 T. Galati
2 Unit identify mosques and the community that
3 they related to by visiting the mosques?

4 MR. FARRELL: Objection.

5 A The purpose of the Demographics
6 Unit and the Zone Assessment Unit was to
7 identify mosques, to identify the ethnic
8 community that would be associated with the
9 mosques.

10 If they could do it without the
11 outside, they would do it from the outside.
12 Often, they were unable to do that and they
13 would then go inside. I'm talking early in
14 the unit's existence.

15 If they needed to, they would go
16 inside the location in order to determine
17 what ethnic community, what signs to
18 describe, what ethnic community would attend
19 that particular mosque.

20 As I did say, that is not the
21 practice and policy since I've been here in
22 2006, and I think I said earlier that unless
23 for some reason there was no other way to
24 determine that factor, I'm not saying
25 definitively that's not the practice, since

1 T. Galati

2 I'm assigned to the unit, that it has been
3 done.

4 Q I think you indicated when
5 there's a new mosque identified even today,
6 it would be part of the job of the
7 Demographics Unit to try to figure out who
8 goes to that mosque; am I correct?

9 MR. FARRELL: Objection.

10 A If we became aware of a new
11 mosque, we would want to know what ethnic,
12 community would attend that mosque.

13 Q If necessary, if you couldn't do
14 it from the outside, the Demographics Unit
15 would visit; is that correct?

16 A Are you asking me today?

17 Q Today.

18 A If the Demographics Unit was
19 unable to determine what kind of mosque it
20 was, would they go inside?

21 Q Yes.

22 A I would want to know what kind of
23 mosque, what kind of congregation it was, I
24 would want to know. I would want to know if
25 they exhausted all other means and that was

1 T. Galati

2 the only way. I would say that they would,
3 but they haven't.

4 It has not come out at least
5 since I'm here. I can't recall instances
6 where that has happened.

7 Q Have there been some number of
8 mosques in New York City that have been
9 identified by the NYPD as mosques of
10 concern?

11 MR. FARRELL: Objection. I need
12 to consult the witness whether privilege
13 applies.

14 I have my objection noted. You
15 can answer the question.

16 THE WITNESS: Can you re-ask the
17 question. Can I consult with you again?

18 MR. FARRELL: Sure.

19 (Recess taken).

20 A The Demographics Unit's job is
21 not to identify mosques of concern.
22 However, I can't tell you that when they
23 identify mosques, that it may indicate that
24 it's a mosque of concern.

25 That's not their function and

1 T. Galati

2 that's not who identifies mosques of
3 concern. Mosques of concern are identified
4 under authorized Handschu investigations.

5 Q Okay. What is mosque of concern?
6 Is it a phrase that's used by the NYPD? Is
7 that correct, mosque of concern?

8 MR. FARRELL: Objection.

9 A I don't use the term mosque of
10 concern nor do people in the Intelligence
11 Division since 2006 use the word mosque of
12 concern. I can't tell you that earlier on
13 that terminology may have been used.

14 Q Is the expression mosques of
15 interest used by the Intelligence Division?

16 MR. FARRELL: Objection. There
17 has to be a way for us to continue. The
18 question that is asked generally about
19 Intelligence Division practices outside
20 of section 882 of the Handschu
21 Guidelines, the practicality, the
22 Intelligence Division, operations that
23 operate under other parts of the
24 Handschu Guidelines, that's the
25 difficulty that I have. I want you to

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understand the difficulty I'm having with the way the question is being phrased.

We'll have to continue to consult about privilege. I don't know if you can structure the questions to get us within the scope of 882.

If you recall the initial notice of deposition, it has the categories. It wasn't limited to 882. It was not going to be about general intelligence practices or investigations, authorized Handschu investigations. You agreed then, you revised the categories limited to 882.

MR. EISENSTEIN: I'm aware of that and I'm asking questions that are geared to address specifically 882, but I need to get into that subject in some way.

Obviously, you're free to consult about law enforcement privilege. I need to ask the questions to get there. So far, the result of each of the

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consultations that you've had had been
that you permitted the witness to
answer.

If you need to do it again, do it
again. I'm mindful, Peter, of the
constraints of the deposition, if you
you have reserved the right to shut this
deposition down.

I don't think I'm going beyond
the bound. You don't have to warn me if
I go beyond the bound. Let's take the
question one at a time.

MR. FARRELL: I was trying to do
it in a collegiate way.

MR. EISENSTEIN: I appreciate
that. I don't think that I'm straining.
I've asked a preliminary question about
a term and I want to know about that
term, and then I'm going to ask whether
that term has any significance about
what this deposition is about.

Q Having said all those things, do
you remember the question?

MR. FARRELL: Can you restate

1 T. Galati

2 it?

3 Q Has the Intelligence Division
4 used the expression mosques of interest?

5 A Can you say it one more time?

6 Q Does the Intelligence Division
7 use the expression mosques of interest?

8 MR. FARRELL: You have my
9 objection.

10 A I believe that the term mosques
11 of interest or mosques of concern had been
12 used in the past. However, that's not a
13 determination that's made by the
14 Demographics Unit, but I'm not saying that
15 the term has not been used.

16 Q In your understanding of the
17 Handschu Guidelines, does the designation of
18 a mosque as being of concern or of interest
19 give the NYPD in and of itself authority?

20 MR. FARRELL: I'm going to
21 object. I'm going to deem it outside
22 the scope of the deposition.

23 MR. CHEVIGNY: You're not
24 allowing him to answer?

25 MR. FARRELL: Yes.

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2 Q When you've told me that the
3 Demographics Unit does not designate any
4 interest or concern, that that's not their
5 job to designate --

6 MR. FARRELL: Objection.

7 A I did not state that. The
8 Demographics Unit has used the term of
9 concern or interest. However, the way I am
10 interpreting concern, interest is related to
11 stuff that's learned outside of 882 with
12 authorized Handschu investigations.

13 Q Are you saying that that
14 designation has not occurred as a result of
15 a visit under 882?

16 MR. FARRELL: Objection.

17 A Under 882, where the Demographics
18 Unit has visited other establishments, they
19 will use a terminology that may be location
20 of concern or a hotspot. So, in other
21 documents or other identifiable locations,
22 they used that terminology.

23 Q What I'm asking is, have they
24 used that terminology as a result of
25 information gained from a visit under 882?

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2 MR. FARRELL: Objection.

3 A Are we talking about commercial
4 establishments?

5 Q Well, I will ask about that.
6 Right now I'm asking you about mosques.

7 A I don't believe that they make
8 that determination. Fair function was to
9 identify the mosques in the community,
10 ethnicity that would go to the mosques.
11 They don't make that determination if it's a
12 mosque of concern or a mosque of interest.
13 If the way I interpreted it --

14 Q Is the determination that a
15 mosque of concern or of interest, which I
16 understand is made by someone else, not the
17 Demographics Unit, is made on the basis of
18 information obtained in the course of 882
19 visits?

20 MR. FARRELL: Objection.

21 A I could not definitively tell you
22 that there may be a small piece of something
23 that may help determine that, but I will
24 tell you that not in the sense of as I see
25 mosques of concern or of interest, I'm

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4 However, I will tell you that Demographics
5 visits mosques and identifies mosques.

6 Q Just so that we're clear, is it
7 your understanding that those visits are
8 authorized under 882 of the Handschu
9 Guidelines?

10 MR. FARRELL: Objection. You're
11 asking from a legal conclusion?

12 MR. EISENSTEIN: Anybody who has
13 to apply a legal rule can be asked about
14 their understanding and their rule. So
15 having said that, let me ask the
16 question again.

17 Q Is it your understanding that
18 those visits to the mosques by the
19 Demographics Unit are authorized under
20 section 882 of the Handschu Guidelines?

21 MR. FARRELL: Objection.

22 A The Demographics Unit identifies
23 locations that would be frequently by
24 communities of countries of interest. By
25 identifying these locations, to help us

1 T. Galati
2 identify the communities, with the goal of
3 trying to detect or prevent terrorism
4 activity, by cataloguing those locations, to
5 include mosques is not investigating
6 political activity. So, I would say that
7 them visiting by itself does not fall into
8 investigating political activity.

9 Q Am I correct that what you're
10 saying in your understanding is the visits
11 to the mosques aren't even covered by the
12 Handschu Guidelines?

13 MR. FARRELL: Objection.

14 A I'm saying the cataloguing of
15 mosques does not necessarily fall under the
16 investigation of political activity.

17 Q I'm a little concerned. I think
18 we're talking slightly passed each other.
19 What I'm hearing you say is that the visits
20 to mosques for the purpose of cataloguing
21 them is not gathering information about
22 political activity if you don't even get to
23 the Handschu Guidelines? Is that what
24 you're saying?

25 In other words, you don't have to

1 T. Galati
2 identify a provision of the Handschu
3 Guidelines that would authorize it because
4 it's not even covered by the Handschu
5 Guidelines?

6 MR. FARRELL: Objection.

7 A No. What I'm saying is that
8 their function by itself by just cataloguing
9 may or may not fall into that depending on
10 what the result of that visit is. But, the
11 basic identification of locations and
12 cataloguing by itself is not investigations
13 of political activity.

14 Q So that, a demographics member of
15 the force assigned to the Demographics Unit
16 who goes to a mosque for the purpose of
17 finding out what kind of a mosque it is and
18 what community goes there is not using the
19 authority that is granted under this
20 section?

21 I'm going to quote, "For the
22 purpose of detecting or preventing terrorist
23 activity, the NYPD is authorized to visit
24 anyplace and attend any event that is open
25 to the public on the same terms and

1 T. Galati
2 conditions as members of the public
3 generally.

4 No information obtained from such
5 visits shall be retained unless it relates
6 to potential unlawful or terrorist
7 activity."

8 My question is, are you saying
9 that, in your understanding, when a member
10 of the Demographics Unit goes to a mosque
11 for the purpose of finding out who goes
12 there, what community goes there, what
13 community it's related to, that member of
14 the force assigned to the Demographics Unit
15 is not using the authority granted by the
16 section?

17 MR. FARRELL: Objection. I'm
18 objecting. It calls for a legal
19 conclusion.

20 You can answer the question.

21 A That section applies to a broader
22 goal with the Handschu Guidelines. 882 is
23 one part of a broader guideline, the
24 Handschu Guidelines, and the Handschu
25 Guidelines describe the main function of the

1 T. Galati

2 investigation of political activity.

3 What I'm saying is, by itself
4 there are levels that can and cannot take it
5 into 882.

6 By itself, cataloguing locations,
7 to know the ethnicity of the community is
8 not investigating political activity.

9 Q Let's just take a member of the
10 force assigned to the demographics community
11 goes into a mosque.

12 Are you saying that whether it's
13 covered by the guidelines depends on what
14 that member of the force brings away? In
15 other words, if he only brings away
16 information about the ethnicity of the
17 people at that mosque, it's not covered by
18 the Handschu Guidelines at all?

19 Is that an example of what you're
20 saying or have I got it wrong?

21 MR. FARRELL: Objection.

22 A I think by identifying locations
23 and cataloguing them, finding out the
24 ethnicity by itself, is not investigating
25 political activity.

1 T. Galati

2 Q Do you know what instructions
3 have been given to members of the force
4 assigned to the Demographics Unit who are
5 deployed to visit mosques? Do you want to
6 hear that question back?

7 A That question may be different at
8 different times. I can't give you a direct
9 answer. I did answer a question earlier
10 that we tell the officers to try and make
11 observations that can help us identify a
12 location with the goal of trying to find out
13 what country of concern may go there, should
14 we need to identify an Islamic that's
15 Radicalized towards violence, maybe hiding
16 in for police action, should it arise.

17 Q Are members of the force assigned
18 to the Zone Assessment or Demographics Unit,
19 who are deployed to go into mosques, given
20 instructions about section 882 of the
21 Handschu Guidelines?

22 In other words, are they told
23 that information obtained on the visits is
24 not to be retained unless it's related to
25 potential, unlawful or terrorist activity?

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2 MR. FARRELL: Objection.

3 A You stated that members of the
4 unit are being sent into mosques. I didn't
5 state that. I stated to you that the goal
6 is for them to identify the mosque and the
7 community, countries of interest that may be
8 associated with that mosque.

9 However, the Demographics Unit
10 does receive instructions on 882, so they do
11 know what 882 is.

12 Q Is that instruction something
13 that's given on a regular basis, had been
14 given ones? What's the drill in relation to
15 instructions about 882 to members of the
16 Demographics Unit or Zone Assessment Unit
17 going into the community?

18 A I think that we instruct all
19 members of the Demographics Unit on 882 as
20 part of a broader training that we do on all
21 of Handschu, and I will state that they
22 receive training early on. Every member
23 that's assigned to the division received
24 training. I'm aware of counsel giving
25 personal training on the matter at some

1 T. Galati

2 point.

3 Every year, every member of the
4 division comes back to training, and then,
5 issues that arise during the course of daily
6 events we have meetings and we bring people
7 in, and if they need to be trained on a
8 particular area there, we'll address it like
9 that. We do many, many things to make sure
10 that everybody understands the entire
11 guideline, not just the 882.

12 MR. EISENSTEIN: Can I have this
13 marked as Exhibit 4.

14 (Plaintiff's Exhibit 4, a
15 document, was marked for identification,
16 as of this date.)

17 Q I've put in front of you what's
18 been marked as Exhibit 4. My first question
19 is, have you seen this document before?

20 A I have seen this document as one
21 of the documents I reviewed that was
22 released by the AP Articles.

23 Q Do you know whether the statement
24 of particular speakers at particular mosques
25 that are reproduced in Exhibit 4 were

1 T. Galati

2 gathered by the Demographics Unit, whether
3 all or any of them were gathered by the
4 Demographics Unit?

5 A I would say that none of this
6 information was gathered by the Demographics
7 Unit.

8 Q What is the basis for that
9 statement?

10 A Can I consult?

11 Q Sure.

12 A This information is gathered
13 based on authorized Handschu investigation.

14 Q The date of this document,
15 Exhibit 4, is before you took command of the
16 Intelligence Division, correct?

17 A Correct.

18 Q You or someone under your
19 direction reviewed those compiled statements
20 and determined that they were all as a
21 result of authorized investigations?

22 A Yes.

23 Q Did you make that determination
24 yourself or did you have someone review this
25 document and determine that?

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2 THE WITNESS: Can I consult you?

3 MR. FARRELL: Sure.

4 A I know most of these personally
5 with my own knowledge, and the few that I
6 was unaware of, I did have checked.

7 Q I want to direct your attention
8 to an entry on the third page relating to
9 mosque Jade, J-A-D-E, M-A-S-J-I-D,
10 D-A-W-U-D-I on February 6, 2006.

11 Are you able to tell me whether
12 that was one you knew about yourself?

13 A That is not one that I know about
14 myself.

15 Q Are you able to tell me what
16 level of investigation under the Handschu
17 Guidelines these reports come from?

18 In other words, were they from
19 preliminary investigations?

20 MR. FARRELL: Objection. I'm
21 going to instruct the witness not to
22 answer. That's not within the scope of
23 this deposition.

24 Q Does the NYPD use the term
25 rhetoric? Does the Intelligence Division

1 T. Galati

2 use the term rhetoric?

3 MR. FARRELL: Objection.

4 A That's a term that's been used.

5 Q Is the determination of whether a
6 person is or a place of interest based in
7 part on what the NYPD refers to as rhetoric?

8 MR. FARRELL: Objection.

9 A It could.

10 Q What is meant by the term
11 rhetoric?

12 MR. FARRELL: Objection. I need
13 to consult with the witness.

14 (Recess at 2:00).

15 Q That's the pending question.
16 What is meant in that setting by the term
17 rhetoric?

18 A I would say that rhetoric is
19 overheard conversation which would be
20 inciting somebody or encouraging somebody to
21 commit an unlawful act.

22 Q Is that something that's the
23 subject of a written standard? What
24 constitutes rhetoric that would cause
25 someone or some place to be of interest?

1 T. Galati

2 A Can you rephrase it?

3 Q Sure. You just gave an answer of
4 inciting, of someone committing an unlawful
5 act. I'm asking if that's a definition of a
6 subject of written standard anywhere?

7 A I don't believe that's a written
8 standard.

9 Q In 882 of the Handschu
10 Guidelines, there's a reference to
11 information: "No information obtained from
12 such visits shall be retained unless it
13 relates to potential unlawful or terrorist
14 activity."

15 Would you say that as applied in
16 882, the same definition that you had just
17 given me of rhetoric applies? In other
18 words, that rhetoric wouldn't pertain or
19 relate to potential unlawful or terrorist
20 activity unless it involves someone saying
21 to someone else or advocating that someone
22 committed an unlawful act?

23 MR. FARRELL: Objection.

24 A Is your question that --

25 Q I'll ask it again. It's an after

1 T. Galati

2 lunch question. You have to forgive me.

3 Does any other unit besides the
4 Demographics Unit within the Intelligence
5 Division engage in the activity that are
6 described and authorized in 882?

7 A No, the Demographics Unit is the
8 only unit.

9 Q Are members of the force assigned
10 to the Demographics Unit instructed to
11 report back about certain kinds of rhetoric?

12 MR. FARRELL: Objection.

13 Q If they hear it.

14 MR. FARRELL: Objection.

15 A What I would say is, the function
16 of the Demographics Unit is to go out,
17 catalog locations. There are times when
18 there are World events, and during the times
19 of World events, then they would be going
20 out looking to gage, I guess gage the
21 feeling or the sentiment of the situation
22 related to it. It's a reaction area. That
23 would be the Demographics Unit that would go
24 into the location to gage that sentiment.
25 It's based often on a World event or could

1 T. Galati

2 be based on an event.

3 Q Taking that as an example, in
4 that reaction situation, are the members of
5 the force assigned to the Demographics Unit
6 instructed to report back about what they
7 hear on that subject, on the subject of the
8 event?

9 A I guess it would depend on what
10 they heard about that subject. I would say
11 that they are to report if they have
12 overheard a conversation which would gain a
13 reaction. We're looking for a reaction.

14 Q You're looking for what the
15 reaction is to that World event, correct?

16 A I would like to say the reaction
17 to determine if it has any implications for
18 New York City for that particular community
19 or anything. So, is this Global event going
20 to have an adverse reaction in a particular
21 area, community, particular people that may
22 cause the police department to have to react
23 to it?

24 Q I don't have any copies of this.
25 The record should reflect that there are

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T. Galati

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7

Q Am I correct that this is

8

contained in a Zone Assessment Unit report

9

about a visit to a commercial establishment?

10

A Yes.

11

Q My question is, was this an

12

activity that was undertaken by the member

13

of the force assigned to the Zone Assessment

14

Unit covered by 882 of the Handschu

15

Guidelines?

16

A Just say the question one more

17

time.

18

Q That's okay. Is this document,

19

bates stamped 904, part of a report of a

20

member of the force assigned to the Zone

21

Assessment Unit conducting a visit pursuant

22

to section 882 of the Handschu Guidelines?

23

A Yes.

24

Q Under section 882 of the Handschu

25

Guidelines, as you understand the

1 T. Galati
2 guidelines, is it permissible to record the
3 information about this conversation given
4 the restriction that says no information
5 retained from such visits shall be retained
6 unless it relates to potential unlawful or
7 terrorist activity?

8 MR. FARRELL: Objection.

9 A The main purpose of the
10 Demographics Unit/Zone Assessment Unit helps
11 us identify locations if we're faced with a
12 threat that's coming from a country of
13 concern and we're looking to find a
14 terrorist that's likely to commit a
15 terrorist attack.

16 The police department needs to
17 know where we should go and look for that
18 particular terrorist. A lot of information
19 that the Zone Assessment Unit captures helps
20 us identify locations that we should look or
21 not look for.

22 In this document, it's clear that
23 speaking in Urdu officers indicate they are
24 Pakistani. It does have value to us for
25 potential terrorist or unlawful activity in

1 T. Galati
2 the sense that it's telling us, in this
3 particular location at [REDACTED], we
4 would be able to find -- that's a location
5 where we would possibly find -- I'm not
6 telling you that would be a Pakistani
7 location and we're going to find someone
8 that speaks Urdu, a terrorist from a
9 particular region in Pakistan where they
10 speak Urdu or if we're looking for an Urdu
11 Pakistani male that would commit a terrorist
12 attack. This piece of information would be
13 very valuable to us.

14 We retain that information
15 because it may seem like minutia. The fact
16 that they speak Pakistani and Urdu is
17 something that I find useful in my quest.

18 Q You comment speaking in Urdu and
19 Pakistani.

20 A Yes.

21 Q From the point of view of what
22 you just described and I'm not seeking to
23 argue with you, isn't the information that
24 this is a location where we could find
25 Pakistanis who speak Urdu -- let me ask the

1 T. Galati

2 question in a different way.

3 How is the police function
4 advanced or aided by the content of this
5 conversation in which one person is
6 complaining to the other about [REDACTED]

7 [REDACTED] worker who supposedly burned the
8 quran was rehired?

9 Does that information relate to
10 potential unlawful activity or terrorist
11 activity?

12 A I would say we're not looking for
13 Pakistanis that speak Urdu. That's not what
14 we're looking for. The goal of the
15 information collected is so that when we're
16 looking for a terrorist, Islamic radicalized
17 towards violence, that we have threat,
18 information that has come in and we need to
19 start looking for that person. We have
20 information that indicates that this person
21 is Pakistani, speaks Urdu or may even to
22 some extent based on Urdu give us a
23 particular region where they might be from.

24 That information is very valuable
25 when we're faced with an intimate threat and

1 T. Galati

2 we have to look for it.

3 My point is that that
4 conversation is indicating that these males
5 who speak Urdu is valuable to us in
6 detecting or preventing a terrorist
7 activity.

8 That's really what I'm focusing
9 on, is the fact that these two men at that
10 location, [REDACTED] speaking [REDACTED] are angry
11 about what happened to someone who burned
12 the quran. Is that of value? Is that
13 useful? The phrase in 882 information
14 relates to potential unlawful activity, not
15 their ethnicity, not their language, not the
16 region where they're from.

17 The particular grievance where
18 they were exchanging about, it's the
19 information that's contained in the
20 conversation that's of value. We're
21 identifying these people. It may not be
22 Pakistani. It's frequently by a Pakistani
23 individual that speaks Urdu. That's an
24 important part. It's the information
25 contained in the conversation that would

1 T. Galati

2 help us when we have to start looking.

3 This is something that we can
4 turn to. We can start saying, where should
5 we be looking for a terrorist who's planning
6 or recruiting potential attack in New York
7 City and we know that that person is
8 Pakistani and Urdu.

9 Based on the language that would
10 be important to us, I would say, not
11 necessarily the content, everything
12 contained in it, the information that the
13 conversation has that I consider of value.

14 Q I'm focusing on the content and
15 on the specific provision of 882 because, in
16 fact, in this report the content was
17 retained. In other words, this is a
18 document from -- I don't remember if it's
19 2010 or 2011. It's relatively the last
20 couple of years. What I'm trying to find
21 out is whether from your vantage point as
22 Commander of the Intelligence Division, in
23 terms of instructing these people of the
24 force who are doing the work of the Zone
25 Assessment Unit, do you understand the

1 T. Galati

2 retention of the content?

3 What I mean by the content is the
4 expressed grievance about this [REDACTED]
5 [REDACTED] workers, the retention of that
6 content. Is that consistent with 882 saying
7 no information shall be retained unless it
8 relates to potential unlawful or terrorist
9 activity?

10 MR. FARRELL: Objection.

11 A What I'm saying is that as a
12 whole, this statement has value to us in the
13 protection or prevention of a terrorist act.

14 Q Take a look at 833. Let me just
15 have the book back to make sure I'm giving
16 you the right page. It's 836. If you
17 would, read it. Since I don't have a copy
18 of it, read the conversation that's
19 reproduced on 836.

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

18 Q In relation to the content of
19 that conversation, from your vantage point
20 as commander of the Intelligence Division,
21 is the information, the content, not the
22 fact that these are Pakistani males, not the
23 fact that they were conversing in Urdu, but
24 the content of their conversation, is it
25 authorized under 882 to retain that?

1 T. Galati

2 Does that information relate to
3 unlawful potential activity or terrorism?

4 A I have to state that in these
5 conversations, when they indicate signals to
6 us that we can use as far as identifying
7 people from countries of concern, it is of
8 value.

9 I can't take the content without
10 taking the description and the Urdu in it.
11 I would say that it does have value to us.

12 And under 882, I would state that
13 we could retain that.

14 Q Can you articulate how it has
15 value? What is the thought process that
16 leads you to conclude that the phrase is no
17 information obtained from such visits shall
18 be retained unless it relates to potential
19 unlawful or terrorist activity?

20 If you could, tell us how you
21 would express what the value is?

22 A I think I did explain it in the
23 last example, but I will explain it again.
24 The purpose of the demographics cataloged in
25 these locations, collecting information at

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these locations are for the police department to respond to a threat that they may be facing.

When we are faced with a threat or we have information about a threat that is present and we need to go out and we need to try and mitigate that threat, we have to be able to, at our fingertips, find what is the most likely location that that terrorist is going to go to and hide out amongst other people from the same country.

But, this is the person that is going to commit a terrorist attack. To value what's in here, that I know if I'm looking for a terrorist who is Pakistani, from a region in Pakistan who speaks Urdu, I'm not going to waist my time in a restaurant where they speak Arabic.

I want to know where the restaurant is that are going to be Pakistanis. Mostly likely, Postun that's speaking Urdu. So that's value to me to prevent or detect terrorism that I'm now facing the threat.

1 T. Galati

2 I know where it's coming from. I
3 want to go to these locations so I can
4 either find somebody that's hiding in these
5 locations, recruiting in these locations.
6 That's the value of it.

7 Q Would you agree that there are a
8 number of locations that have been mapped by
9 the Zone Assessment Unit where Pakistani
10 people speaking Urdu congregate?

11 A I believe that they have
12 identified numerous locations where people
13 speak Urdu.

14 Q The question that I'm asking is,
15 are you saying that the fact that two people
16 at a particular location complained about

17 [REDACTED] in
18 the manner that is described in that
19 conversation makes that place more likely to
20 be a haven for someone engaging in a
21 terrorist act and therefore, that
22 information relates to potential terrorist
23 activity?

24 MR. FARRELL: Objection.

25 Q Do you understand my question?

1 T. Galati

2 A I understand the question. I
3 would say no, I am not telling you that this
4 place is more likely than another place
5 where they speak Urdu. What I'm saying is
6 that, depending on what threat we're facing,
7 we need to be able to look at what
8 information we have collected so we could
9 properly deploy and try to find the threat
10 or the terrorist and the tension that are
11 going to help us in the information
12 contained.

13 The fact that it's Pakistani,
14 Urdu is a very important factor. It doesn't
15 mean that there's more of a chance that he's
16 going to be in this particular one. It's
17 important for me to know this is one of the
18 locations that we're going to have a
19 Pakistani community that speaks Urdu that's
20 radicalized towards violence that would
21 either try to either hide or recruit.

22 Q I understand what you're saying.
23 This is the quran. What I'm asking you is
24 about 882. Correct me if I'm wrong, a part
25 of the Handschu rule that places some

1 T. Galati

2 restriction on what information can be
3 retained, right?

4 A Yes.

5 Q And the guidelines for what
6 information can be retained are captured in
7 the World related to potential unlawful or
8 terrorist activity, right? That's where the
9 limitation resides, so to spoke?

10 A Yes.

11 Q Let's take this page 834 or 6,
12 whatever it is.

13 A 836.

14 Q There's certain information at
15 this place, Pakistanis who speak Urdu
16 congregate and talk to each other. That's
17 one set of information. Okay? You've told
18 me that that's extremely valuable for you to
19 know about if you're addressing a threat,
20 right?

21 A Yes.

22 Q I'm apologizing for taxing you
23 about this. I'm focused on whether the
24 retention of the specific conversation for
25 another word complaining about the threat of

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T. Galati

these [REDACTED].

You told me that that piece of information that there are two guys there complaining about the [REDACTED] [REDACTED] does not make it more likely that a terrorist would go, am I correct so far?

A You'd have to repeat that.

Q I think you've told me that the fact that at this particular location where there are Pakistanis speaking Urdu, the Zone Assessment Unit heard two men complaining about the [REDACTED]

[REDACTED] That fact alone, their complaint expressed to each other doesn't make it more likely that this is a place where a terrorist would go?

A It doesn't make it more likely or less likely. It's a tool for us to look for that person that we're looking for that has that same characteristic that's going to hide or recruit within a place that he or she is comfortable in.

For a terrorist person that we're

1 T. Galati
2 trying to secrete themselves in this
3 particular community, I can't tell you it's
4 more likely or less likely. It's a tool for
5 us to look in the right place.

6 Q If it's either more likely or
7 less likely, the specific conversation about
8 the [REDACTED]
9 [REDACTED] how does that piece of information
10 relate to potential unlawful or terrorist
11 activity?

12 A I'm taking the conversation as a
13 whole. I'm looking in that conversation.
14 I'm seeing Urdu. I'm seeing them identify
15 the individuals involved in that are
16 Pakistani.

17 I'm using that information for me
18 to determine that this would be a kind of
19 place that a terrorist would be comfortable
20 in and I'm retaining that for the fact that
21 I can retain it, if it's going to help me
22 detect or prevent a potential unlawful or
23 terrorist attack.

24 So, a potential terrorist could
25 hide in here and that piece of information

1 T. Galati
2 is important for me to know. That this is
3 where I'm going to find somebody that speaks
4 Urdu. And again, I'll go far beyond
5 Pakistan. Most Urdu speakers from that
6 region would be of concern, so that's why
7 it's important to me.

8 Q The fact that these two guys are
9 grieved about something that happened in the
10 U.S., is that of importance to you?

11 A That is less important to me than
12 the fact that they are Pakistanis and that
13 they are speaking Urdu.

14 Within this, this is the
15 important pieces that I'm looking for.

16 Q Is the fact that these two guys
17 are grieved about something, is that
18 something that happened in the U.S., does
19 that fact relate to potential unlawful or
20 terrorist activity, the fact alone that they
21 are grieved about something that happened?

22 A Say your question one more time.

23 Q I understand what you said about
24 Pakistani, probably Postun, Urdu speaking,
25 all of the specification of ethnicity.

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T. Galati

Putting that aside, I'm asking about the fact that these two guys are grieved about something that happened in the U.S. is that fact related to potential terrorist or unlawful activity?

A I can't separate the conversation based out of the value that I see in the conversation, what their grievance is. It's not what I'm focused on. I'm focused on the identification that I'm getting out of the conversation.

Q I'm showing you now what's been Bates stamped as page two in the document production. There's a conversation in boldface, [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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T. Galati

[REDACTED]

19 Q Am I correct that this page two
20 from the Bates stamped two is part of, I
21 guess, Demographics Unit report of a visit
22 to a location conducted by the Demographics
23 Unit under the authority of section 882 of
24 the Handschu Guidelines? Am I correct that
25 that's what this represents?

1 T. Galati

2 MR. FARRELL: Objection.

3 A This is a report I believe that
4 we call a weekly report of numerous
5 locations that were visited.

6 Q These visits were conducted under
7 section 882 of the Handschu Guidelines?

8 MR. FARRELL: Objection.

9 A The visits and cataloguing alone
10 are not. However, there are a spectrum of
11 things that may in fact fall under 882.

12 Q What are the things that fall in
13 882?

14 A You're asking me about this whole
15 entire document, so, there are numerous
16 locations.

17 Q Just focusing on the section that
18 I asked you to read, does that part of the
19 report fall under 882?

20 A I would say, yes.

21 Q I just want to understand and
22 bear with me with this question, and tell me
23 if you don't understand it. A member of the
24 force assigned to the Demographics Unit goes
25 into a location. At the moment he goes in,

1 T. Galati

2 I understand you to be saying that that's
3 not necessarily covered by 882. Not
4 necessarily doesn't necessarily have to be
5 authorized by 882.

6 Before he hears a word just going
7 into the location, he's been assigned to go
8 to the location. He steps in the door. I
9 want to try to break it down in some way.
10 This won't be useful, but I'll try.

11 A When we go out and try to
12 catalogue locations so that we could
13 determine what country of concern would go
14 to that, the simple fact that we're
15 cataloguing locations does not necessarily
16 fall in 882. However, the authority that we
17 go out and go to these locations and at
18 times have these overheard conversations
19 does fall within 882, and the reason why we
20 retain them is because we have value in the
21 statements which would help us prevent or
22 detect terrorism activity.

23 Q Thank you. You got a little
24 ahead of me. That visit to [REDACTED]

[REDACTED] what is it that made it subject to

1 T. Galati

2 882?

3 A Say it again.

4 Q Maybe I need to back up.

5 MR. FARRELL: I want to put on
6 the record, you had asked a question
7 about what the witness has said. It may
8 be confusing as to what it may fall
9 under, but we'll look at it in the
10 review process.

11 MR. EISENSTEIN: So noted that
12 you noted it.

13 Q Just focusing on the portion of
14 the report that relates to what the
15 reporting officer saw and heard at [REDACTED]
16 [REDACTED], is that section of the
17 report subject to section 882 of the
18 Handschu Guidelines covered by 882?

19 MR. FARRELL: The part that he
20 just read into the record?

21 MR. EISENSTEIN: Correct.

22 A I would say yes.

23 Q What is it about that section of
24 the report that in your understanding makes
25 it subject to that rule, the 882?

1 T. Galati

2 A Information contained within
3 there, which has given us other information
4 that could be helpful in the purpose of
5 preventing terrorist activity.

6 Q What is the information contained
7 in what you read that I'm going to use the
8 phrase from 882 that relates to potential
9 unlawful or terrorist activity?

10 A Well, the fact that they are
11 speaking in Bengali is a factor that I would
12 want to know. Being that it's a [REDACTED]
13 store, I would want to know that. There are
14 things in here that has helped me identify
15 who would go and visit this store. So those
16 factors tell me something that I consider of
17 value.

18 Q Am I correct that if they simply
19 reported a location where they speak [REDACTED]
20 and [REDACTED] and they are from a certain
21 region, that's all they wrote down from your
22 understanding, that would not involve 882?
23 That's just a mapping function, correct?

24 A No, it would help us. Mapping is
25 telling us where the places are. Some of

1 T. Galati
2 these observations and overheard
3 conversations just give us more information,
4 so it goes beyond the simple just
5 cataloguing of a location.

6 Q I understand that, chief. What
7 I'm asking you about is everything gives you
8 more information. In other words, every
9 word that they write gives you more
10 information about that location, correct?

11 A Correct.

12 Q But, there's a limitation in the
13 Handschu rules about what information you
14 can retain, right?

15 A Correct.

16 Q Isn't the retention of a
17 conversation in which one [REDACTED] customer
18 says to the guy behind the counter, that
19 [REDACTED] is correct and the [REDACTED] government
20 is not corrupt the way third world countries
21 are corrupt? I'm sorry for the double
22 negative. Isn't that information that does
23 not relate to potential unlawful or
24 terrorist activity?

25 MR. FARRELL: Objection.

1 T. Galati

2 A I am taking the conversation as a
3 whole and I'm reading about two [REDACTED]
4 people that are speaking in [REDACTED] in a
5 [REDACTED] store. I find value in that for some
6 reason. This information is solely used for
7 the purpose of being able to identify a
8 location where I should face a threat, where
9 I'm facing a threat of a terrorist and that
10 terrorist is [REDACTED].

11 This piece of information would
12 be valuable to me. I take it as a whole. I
13 take it as the conversation. I take it as
14 [REDACTED] and that's what I feel is of value.
15 The sole purpose is for identifying a
16 location where I would find somebody that
17 was hiding who is a terrorist from [REDACTED].

18 MR. EISENSTEIN: I need to take
19 a bathroom break.

20 (Recess taken at 3:15 p.m.)

21 A I just want to clarify some of
22 the information: When the information is
23 collected, it is taken back and looked at by
24 an analyst. Analysts make determinations of
25 the information contained in conversations.

1 T. Galati

2 To the extent of that, what is
3 the community's reaction to let's say events
4 or things. Also, I think what's important
5 for us is, if the conversations indicate
6 support for let's say Osama Bin Laden or
7 Iran or depends on a particular
8 conversation, it's important for us to know
9 because that might be a place that a
10 terrorist could recruit from.

11 So, the content of the
12 conversations may give us an idea of the
13 place that a terrorist would be comfortable
14 being in, so he could recruit from a
15 location like that. I think also the fact
16 that current events would tell us if the
17 community's upset, if that's going to have
18 any implication within the city.

19 So just a little bit more in
20 those conversations.

21 Q Who are the analysts that make
22 the kind of determination or assessment that
23 you've just been talking about? What their
24 names are, where do they fit in the
25 structure of the Intelligence Division?

1 T. Galati

2 A The analysts are non-police
3 officers. They are not police officers
4 that are hired there. They look at whatever
5 they look at, World events.

6 They look at local events. They
7 look at information that comes in from many
8 different parts of the Intelligence
9 Division, and it's their job to make an
10 assessment on whether or not there's an
11 issue of concern that we must address.

12 Q Are they under your command? Are
13 they within the chain of command of the
14 Investigations Unit, Intelligence Unit?

15 A Yes.

16 Q If they make an assessment of
17 what's being brought in, warrants, some
18 action, does that indicate that an
19 investigation has commenced?

20 MR. FARRELL: Objection.

21 A Related to Demographics, I can
22 tell you that information that have come in
23 has not commenced an investigation.

24 Q You're saying that based on what
25 has occurred during your tenor, correct?

1 T. Galati

2 A Yes.

3 Q Do you know whether that was also
4 the case before you took over the
5 Intelligence Division?

6 A I think that prior to me, there
7 had been indication that there was one place
8 that was visited later, that later on became
9 subject of an investigation.

10 However, I have not been able to
11 determine that. That case involved a
12 prosecution, but I have not been able to
13 definitively say that it was because of
14 Demographics.

15 I believe it was because of the
16 Handschu investigation.

17 Q After Demographics provided
18 whatever information, it provided an analyst
19 go over it. If the analyst doesn't find
20 anything that signals a threat or concern,
21 are the reports retained in any event?

22 In other words, are the
23 Demographics reports, whatever they contain
24 or the zone Assessment reports, whatever
25 they contain after they have gone to the

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analyst, retained? Whether or not they are

3

contained, anything that was specifically

4

useful or specifically worth analyzing?

5

MR. FARRELL: Objection.

6

A The information in the

7

Demographics reports does have value. So,

8

yes, it is retained because the report

9

itself contains a lot of bits and pieces of

10

value, of intelligence value.

11

Q What is your understanding of the

12

meaning of the phrase investigation of

13

political activity?

14

A It's in relation to persons or

15

people or groups that want to exercise their

16

right to try and effect change or maintain

17

government or social status. That's what

18

political activity means.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

1

T. Galati

█ [REDACTED]

3

Q I understand that that document,

4

page one of the bates stamped documents was

5

prior to your watch, so to speak, right?

6

A Yes.

7

Q Are locations selected quotations

8

to be investigated where the zone assessment

9

based on rhetoric --

10

MR. FARRELL: Objection.

11

A They are not selected based on

12

rhetoric. To go to a location, it's not

13

based on rhetoric.

14

Q Was that a change or are you

15

saying that that change doesn't mean that

16

that location or selected based on rhetoric?

17

Am I making myself clear?

18

A What I believe in this report

19

here is he's indicating that he listed these

20

locations due to rhetoric event flyers.

21

Q You're saying, he went to a

22

larger group of places, but listed these

23

either because of rhetoric that was

24

overheard there or event flyers that he saw?

25

A That's how I understand it.

1 T. Galati

2 Q Under your command, are locations
3 visited or revisited by the Zone Assessment
4 Unit based on rhetoric heard at those
5 locations?

6 MR. FARRELL: Objection.

7 A I think when we're looking for a
8 reaction because of a World event, locations
9 are picked because those locations have
10 characteristics that would make it easier
11 for them to gage that reaction.

12 So, we would be looking for a
13 place that would be more populated, that
14 would be less populated, so that's what I
15 would say about how we would deploy for a
16 reaction.

17 Q There's a reference in there.
18 I'll find it if I need to do a place
19 investigated as part of a [REDACTED]
20 operation.

21 Do you know what a [REDACTED]
22 operation is? I'm representing to you that
23 there's a reference. I'll tell you what
24 page it is.

25 MR. FARRELL: In the document.

1 T. Galati

2 Q In the document that you --

3 MR. FARRELL: This particular
4 document in front of him?

5 Q Yes, it is in that volume
6 somewhere.

7 MR. FARRELL: You can pose your
8 question.

9 Q Have you heard that phrase?

10 A We use the word [REDACTED], yes.

11 Q Can you tell me what that means?

12 A [REDACTED] is a listening post
13 based on event. So if something happened,
14 they would deploy so they can hear the
15 reaction to what happened.

16 Q I need to put a couple of books
17 in front of you.

18 MR. EISENSTEIN: Peter, would you
19 write down these numbers? 281, 512, 709,
20 898.

21 Q If you look at these three tabbed
22 pages, just focusing on them --

23 MR. FARRELL: You want him to
24 read the whole thing or a particular
25 part?

1 T. Galati

2 Q Let me say what I'm looking for.
3 I'm representing to you and you'll see
4 whether I'm right or not, that a place in
5 [REDACTED] called [REDACTED] was visited
6 by the Zone Assessment Unit on January 5,
7 2010, January, 14, 2010 and January 21,
8 2010.

9 After you've looked at it, in
10 terms of the purposes that you've described
11 to me of the Demographics Unit or of the
12 Zone Assessment Unit, what is the purpose of
13 going back to this location three times of a
14 period of 11 days or 15 days? The question
15 is, why is the Zone Assessment Unit going
16 back to this location three times in a short
17 period of time?

18 A I can't tell you exactly the
19 reason why we went to these three locations
20 in a short period of time. I can tell you
21 that there are times when we work in a
22 particular area and that may be the reason
23 why they went to it. To give you a
24 definite -- I can't tell you why they went
25 to that location.

1 T. Galati

2 Q I mean, are there multiple teams
3 operating? Is it possible that they are
4 just going back because they don't know if
5 another team was there?

6 A I don't want to guess on
7 something. I don't know the answer to that.
8 I don't want to guess on it.

9 Q Putting aside the specification
10 and you don't know why that happened, is
11 there a reason? I can give you other
12 examples, but you probably will tell me you
13 don't know the specifics of that.

14 But, there are several places
15 where their reports of visits over a short
16 period of time. Without going to the
17 specifics of any particular one, and again
18 focusing on the function of the Zone
19 Assessment Unit, if they have established
20 that a place is owned by and patronized by
21 Pakistanis from a particular region who
22 speak Urdu and Postun, what are they going?

23 In general, why would Zone
24 Assessment Unit teams be going back to such
25 a location repeatedly in a short period of

1 T. Galati

2 time?

3 A Let me add one factor to this.
4 These three situations, there's no reason to
5 some World event that it went on any
6 specific reaction activity, correct? Just
7 using that as an example. So, I'm focusing
8 on that situation where they are not
9 reacting, not seeking reaction to a
10 particular World event.

11 Q Can you think of a reason in
12 terms of the functions of the Zone
13 Assessment Unit going back to a location
14 multiple times in a short period of time.

15 A Well, I can tell you that Zone
16 Assessment Unit does not monitor locations,
17 so they are not going there because they are
18 concerned or have conducted an investigation
19 on the location. That's not their duty and
20 responsibility. Zone Assessment people are
21 deployed by us and then help us identify
22 locations for places, for people,
23 communities of concern may shop or gather.
24 They frequently go back to locations to make
25 sure the locations haven't changed often. I

1 T. Galati

2 see even on this, this is a new location
3 that just recently reopened.

4 Part of their duties and
5 responsibilities is to make sure that they
6 update their information, so that's a reason
7 why they do go back.

8 Another thing that they do is
9 identify places that may be better suited to
10 go to in the event of a World event, where
11 they have to hear an overheard conversation.

12 Similar to what I said, it would
13 be better to go to a location, to go to a
14 location that has more people than less.
15 That's why they would go to a particular
16 location if it was based on a reaction,
17 community, sometimes they are small. So if
18 they are trying to gage reaction in a
19 particular community, that doesn't have many
20 places and many different parts of the city.

21 They could be in that particular
22 area. Those are some of the reasons why
23 they could go to a location more than once.

24 However, I can't tell you why in
25 this case, in these other instances -- I

1 T. Galati

2 don't know what this span is, a week, a
3 month, two months. I can't comment on
4 those.

5 Q Take a look please at page 101 to
6 105. I'm going to also ask you about 96
7 through 100. If you would look at both of
8 those and let me know when you're done so I
9 can ask you questions.

10 A You said 101?

11 Q Yes, and then 101 to 105. First
12 question, one of those are two [REDACTED]
13 locations. One a [REDACTED], another one
14 a [REDACTED], right?

15 A Yes.

16 Q The officer assigned the Zone
17 Assessment Unit, officer described the
18 [REDACTED] or check location of concern for
19 the [REDACTED] and did not check location of
20 concern for the [REDACTED].

21 A Yes.

22 Q First question: Are the
23 reporting officers making that judgement or
24 are they simply checking off what they have
25 been told already?

1 T. Galati

2 In other words, are they
3 assessing these places as locations of
4 concern or not locations of concern based on
5 what they are going out and seeing or are
6 they going because it's already a location
7 of concern or maybe there's a third
8 alternative?

9 A We do not tell the demographics
10 officers to go into a location that is part
11 of some other Handschu investigation. They
12 have no idea whether anybody in the division
13 thinks it is or is not a place of concern.

14 When they reference a location of
15 concern, they reference it in a way that, if
16 there's an incident related to the
17 Bangladesh community, this is an
18 identifiable location that they would be
19 able to go into and that they would hear
20 conversations.

21 If you look at the travel agency
22 and you look at the restaurant, it's exactly
23 for that reason that you see a travel agency
24 isn't going to be filled with people that
25 are going to have conversation.

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T. Galati

They wouldn't be able to gage community reaction to overseas or local events. In a [REDACTED], you would have more people. When they check it as a location of concern, concern is not necessarily indicating that that's a place that there's an investigation or should be an investigation.

A concern is their way of saying this is a place that we could go back to if we need to find something within the [REDACTED] community.

Q Of concern, that phrase or of interest or whatever it is, let's say of concern, is that phrase used differently in relation to commercial establishment say in relation to mosques?

MR. FARRELL: Objection.

A I believe that we make locations of concern for commercial establishments. It's not our policy to make locations of concern religious establishments. That being said, I can't tell you that that term has never been used for a mosque.

1 T. Galati

2 But, it is not the practice or
3 the policy nor do I recall that being on any
4 document that I've seen related to a
5 religious institution. I have for
6 commercial establishments.

7 Q Take a look at 164 actually. Let
8 me give you a different one. Take a look at
9 149. Does that relate to location 919?

10 A Yes.

11 Q [REDACTED] ?

12 A Yes.

13 Q Here is a [REDACTED], a
14 [REDACTED]. It's been checked
15 as not a location of concern, right?

16 A Yes.

17 Q My question is, is the Zone
18 Assessment Unit assigned officers making a
19 judgement here? Two [REDACTED], both
20 [REDACTED], in the same time frame,
21 January, 2010 and they are saying -- I'm
22 comparing it to 101. The one that I showed
23 you before, page 101?

24 A Yes.

25 Q Location 493.

1 T. Galati

2 A Yes.

3 Q Here, in January of 2010, two
4 [REDACTED]. They are saying
5 one is a location of concern, the other one
6 is not a location of concern. Are the
7 officers making a judgement about whether a
8 place is a location of concern based on the
9 visit that they make, the Zone Assessment
10 officers?

11 A Again, I will go back to the term
12 of concern. The term location of concern is
13 a place that we can go to that if there's an
14 event and we needed to overhear something or
15 get the feeling of community reaction to an
16 event, overseeing that that happened and
17 occurred here, where would we go to hear or
18 get a feel for what's going on?

19 The only judgement that they are
20 making is that this is a location where we
21 may be able to hear something.

22 This is not -- one location is in
23 [REDACTED], which may or may not be in the
24 middle of a [REDACTED] area and one area is
25 in a more densely [REDACTED] area.

1 T. Galati

2 Their judgement is, if we need to
3 -- this would be a better place for us to
4 hear. It has nothing to do with
5 investigation, just where would we deploy if
6 we needed to get a reaction, if we needed to
7 get a [REDACTED] issue.

8 MR. FARRELL: Where?

9 A The first one is 101. I would
10 like to add to that last conversation. If
11 you look at the occupancy, the occupancy of
12 the location that is not of concern has
13 seating for 10 to 15 customers where the
14 location that they have has seating for a
15 capacity of 60 to 65 people.

16 Q Take a look at 639. You see
17 there's a notation that the owner is a [REDACTED]

[REDACTED]
19 A Yes.

20 Q Is that something that was
21 furnished to the assigned officer in way of
22 information when the assignment was made?

23 A No.

24 Q Would you say that that's
25 something that the assigned officer would

1 T. Galati

2 know based on his personal history?

3 MR. FARRELL: Objection.

4 MR. EISENSTEIN: It's a stupid
5 question. Let me ask it a different
6 way.

7 Q Is that personal knowledge that
8 that assigned officer is bringing to the
9 report?

10 MR. FARRELL: Objection.

11 A The officers assigned to the
12 Demographics Unit, Zone Assessment Unit,
13 they have language skills. Maybe some of
14 them are also born in these countries. They
15 speak the language, they can determine
16 things that maybe I can't determine.

17 This officer who, I believe, is
18 [REDACTED], now knew that this guy was a

19 [REDACTED]

20 [REDACTED]

21 Q Is there an indication that this
22 was the third visit in a couple of weeks?
23 Do you see that? If you can't find it, I'll
24 find it: Sometimes it says first visit,
25 last visit.

1 T. Galati

2 MR. FARRELL: 639 is the one you
3 have?

4 MR. EISENSTEIN: Yes.

5 MR. FARRELL: It's my notes
6 comparing documents to each other.

7 Q If you look at 639 and 411, but
8 as you may recall, I don't have copies of
9 these.

10 MR. FARRELL: Can you pass us
11 back 639?

12 MR. EISENSTEIN: Certainly.

13 Q According to my reading of these
14 documents, this place [REDACTED] was
15 visited by the Zone Assessment Unit on
16 January 5, 2010, January 8, 2010 and again
17 on January 19, 2010.

18 A What was January 8th?

19 Q In the 411, there's a reference
20 to two reported ID's and it says visited
21 1/5, and 1/8, maybe in the narrative. So
22 here's the location: It's [REDACTED], it's
23 [REDACTED]. It's a [REDACTED]. It's relatively
24 large, so it's clearly a place where people
25 would gather. All of that is known or

1 T. Galati

2 knowable in the visit of January 5th.

3 My question is, for what reason
4 is the Zone Assessment Unit going back to
5 this particular place three times within
6 2 weeks?

7 A I can't give you a definite
8 answer why they went back three times. I
9 would say, it's not their job to monitor
10 locations. Their job is to go when we tell
11 them to go for community reaction and I
12 can't definitively tell you.

13 It may have been an issue related
14 to a Pakistani event. They wanted to go to
15 a Pakistani location to overhear something.
16 They may have gone to numerous Pakistanis.
17 They may have been working in that
18 particular event.

19 I will tell you definitively they
20 are not monitoring locations. They are not
21 going back to locations because they are
22 monitoring those locations.

23 Q Do you see any reference in any
24 of the reports about that particular
25 location, any of these three reports to any

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T. Galati

specific World event or local event?

A I do not see reference to it, but it does not mean they weren't deployed based on that. There are events that are big events and we decide to make -- I decide to make them go to a particular area because of the event that involves a particular community.

There are times when there are smaller events that officers from [REDACTED] or [REDACTED], that might pick up local things. What I mean, local from that country that they say, hey, this happened in [REDACTED], maybe we should go to a [REDACTED] area.

A sergeant may make that decision and he would deploy them because the sergeant does have the discretion unless he gets a specific assignment from me to go to a particular region to check on locations, to make sure they haven't changed. So they follow their own current event that happened in the World and you the sergeant says "Today we're going to go to an area that has

1 T. Galati

2 [REDACTED] community."

3 I can't tell you why they were in
4 this place three times. I can tell you they
5 are not monitoring these locations.

6 Q I take it that it doesn't relate
7 to the fact that the proprietaries of the
8 places identified as a [REDACTED]

9 [REDACTED]
10 A [REDACTED] is not a
11 designated terrorist organization as far as
12 I know. I think that it has some value to
13 tell you where from [REDACTED] he's from.

14 But, that is not the basis of why
15 they would be deployed.

16 Q Have members of the force
17 assigned to the Zone Assessment Unit ever
18 been deployed to visit functions of any
19 Muslim student association?

20 MR. FARRELL: I'm sorry, can you
21 have that read back?

22 A No, the Zone Assessment
23 Demographics Unit has never been deployed to
24 a Muslim student association events.

25 Q Have officers assigned to the

1 T. Galati
2 Zone Assessment Unit ever been deployed to
3 visit locations outside of the confines of
4 New York City?

5 A Yes.

6 Q Does that continue to occur up to
7 the present time?

8 A They have not been deployed
9 recently outside the confines of the city.

10 MR. EISENSTEIN: Mark
11 Plaintiff's Exhibit 5.

12 (Plaintiff's Exhibit 5, a
13 document, was marked for identification,
14 as of this date.)

15 Q Chief, I'm showing you what had
16 been marked as Exhibit 5. Have you seen
17 that document before?

18 MR. FARRELL: Do you have a copy
19 for me?

20 MR. EISENSTEIN: Sorry, I don't
21 have a copy of that one.

22 A I have seen this document as a
23 document that was looked at through the AP.
24 That was the first time that I seen that
25 document.

1 T. Galati

2 Q Is the activity described in that
3 document something that would be assigned to
4 the Zone Assessment Unit that is going to a
5 mosque and recorded license plates of cars
6 that came there?

7 A The Zone Assessment Unit has
8 never, to my knowledge, recorded license
9 plates.

10 MR. EISENSTEIN: Mark six
11 please.

12 (Plaintiff's Exhibit 6, a
13 document, was marked for identification,
14 as of this date.).

15 Q As part of an authorized
16 investigation, has any unit of the
17 Intelligence Division recorded license
18 plates of people attending a mosque?

19 A Outside of an authorized
20 investigation, to the best of my knowledge,
21 no. I would like to also clarify an answer
22 that I gave earlier. It's not meant to be
23 funny.

24 Sometimes these officers, when
25 they go, they go to places that they may

1 T. Galati

2 like the food and go back for that reason,
3 and I know that that has happened. So
4 multiple visits might indicate such an
5 event.

6 Q There are charges particularly on
7 the DD five's for covering concealment. Is
8 that reimbursement for buying food at the
9 establishment that's been visited?

10 A Yes.

11 Q Do the officers assigned to the
12 Zone Assessment Unit go to the locations in
13 uniform or in plain clothes?

14 A They go in plain clothes.

15 Q Are the officers of the Zone
16 Assessment Unit who are deployed to those
17 locations in their communities, instructed
18 that they are not affiliated with the NYPD?

19 A Yes.

20 Q So, that we might find some of
21 the repeated places where the food is good?

22 A I'm not telling you that's the
23 reason. I am telling you that the reality
24 is that I have talked to people that they
25 have indicated that this is a place that

1 T. Galati

2 they like to eat. So a repeated visit may
3 be indicative of the like for food.

4 Q I'm showing you what had been
5 marked as Exhibit 6. Have you seen that
6 document before?

7 A I've seen it in relation to the
8 AP Articles.

9 Q If you would take a look at the
10 tab two, tab pages where I put the sticker
11 on. Do you see a reference in one to
12 rhetoric, level one and then the other one
13 there's a rhetoric level two?

14 MR. FARRELL: Can we identify
15 the document for the record? The title
16 of it says Albanian locations of concern
17 report.

18 Q Do you see the rhetoric level one
19 and rhetoric level two?

20 A Yes.

21 Q Have you seen what those
22 categories are used before?

23 A This is prior to my assignment.
24 However, I have heard of level of rhetoric
25 that was used for a short period of time.

1 T. Galati

2 Q Were there some written
3 guidelines about rhetoric levels?

4 A I'm not sure if there's written
5 guidelines or not. We presently do not use
6 and have not used it since I'm here.

7 Q Are you able to tell me where
8 you've seen it used other than Exhibit 6?

9 A I believe during my prep, there
10 was discussion that I asked a question about
11 this, where I was told that at one point
12 there were levels of rhetoric that they
13 used.

14 Q Do you know who told you that?

15 A Sergeant Matha, M-A-T-H-A.

16 Q Is Sergeant Matha still assigned
17 to the Intelligence Division?

18 A Yes.

19 MR. EISENSTEIN: Mark that as
20 seven.

21 (Plaintiff's Exhibit 7, a
22 document, was marked for identification,
23 as of this date.)

24 Q I want you to take a look at
25 Exhibit 7. My question is going to be

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T. Galati

whether any of the activities reported on Exhibit 7 are activities of officers assigned to the Zone Assessment Unit?

A None of this is from the Zone Assessment Unit. This is all from authorized Handschu investigations. Can I clarify one thing about this report?

Rhetoric, that was used very early on when the unit first started and it was stopped at some point. I think it's important on this document that you're showing me and I don't know what the date is. It says 2006 here.

This information was not necessarily collected in 2006. This information most likely was collected in 2003. So, I just want to make sure that everybody understands that this is not necessarily a 2006 or whenever this document here was produced. This is older.

MR. FARRELL: So the record is clear, the witness was referring to Exhibit 6, not Exhibit 7.

MR. EISENSTEIN: Right. Good

1 T. Galati

2 point.

3 MR. EISENSTEIN: We're talking
4 about the information that was checked
5 in Exhibit 6. Exhibit 7 was checked in
6 2008 or is dated in 2008.

7 Q To your knowledge, did any kind
8 of written guidelines about rhetoric replace
9 the level one/level two system that you've
10 told us was used early on?

11 A Early on, I couldn't tell you
12 definitely that there was guidelines on
13 rhetoric policy. I know we don't have it
14 now. I'm unaware that it exists prior, but
15 I can't definitively tell you that there
16 isn't a document.

17 Q There isn't one at the present
18 time that defines, for example, what kind of
19 rhetoric is considered actionable, so to
20 speak?

21 MR. FARRELL: Objection.

22 A I don't know what you mean by
23 rhetoric is considered actionable.

24 Q That rhetoric would be considered
25 a basis for moving something into the realm

1 T. Galati

2 of investigation?

3 MR. FARRELL: Objection.

4 A If there was something that was
5 recorded by the Demographics Unit that
6 raised to the level that it needed to be
7 generated, it would be looked at by the
8 analytical shop and then it would be
9 generated to the officer's attention, my
10 attention, and I would make a decision on
11 whether or not we would make a lead on this.

12 I could tell you that I have
13 never made a lead from rhetoric that came
14 from a Demographics report and I'm here
15 since 2006. I don't recall other ones prior
16 to my arrival. Again, that's always a
17 possibility. I am not aware of any.

18 Q Where and in what form are the
19 reports that are generated by the Zone
20 Assessment Unit maintained? In other words,
21 are they at some physical location and are
22 they in paper form, electronic form, both?
23 Those are the questions that I'm asking.

24 A Presently?

25 Q Yes.

1 T. Galati

2 A Presently, when the zone
3 assessment officers do their reports, they
4 do an electronic report that is
5 electronically held in our database which is
6 a server database.

7 In addition, there's a standalone
8 computer where information is inputted for
9 the purpose of generating reports related to
10 demographic areas and so on.

11 Q Does that mean that the reports
12 are in electronic form? One in the
13 standalone computer and the other one in the
14 database on the server?

15 MR. FARRELL: Objection. Go
16 ahead.

17 A Yes, they are produced and held
18 on the server and they also input the
19 information into a standalone for the
20 generation.

21 This is the Zone Assessment Unit.
22 They put it into the zone assessment
23 database for generating special reports,
24 requested reports.

25 Q The Zone Assessment Unit has its

1 T. Galati

2 own database? That's a question. Does the
3 Zone Assessment Unit have its own database?

4 A Yes, it does.

5 Q There's also a larger
6 Intelligence Division database?

7 A Yes.

8 Q If you'll give us 5 minutes, I
9 want to make sure what's covered had been
10 covered. Off the record.

11 (Recess taken).

12 Q At the present time, what is the
13 procedure for members of the force assigned
14 to the Zone Assessment Unit in terms of
15 writing up what they have observed?

16 Do they do it everyday? Do they
17 do it on a weekly basis?

18 A When they get back to where they
19 were, they prepare an electronic what we
20 call a DD five form, what they did for the
21 day, for the visit.

22 Q They do that each day now?

23 A Yes.

24 Q Do they work steady day tours or
25 do they work around the clock?

1 T. Galati

2 MR. FARRELL: I'm going to
3 confer about privilege.

4 A I would say for the most part,
5 they do daytime deployments, but we moved
6 them periodically so we can understand
7 different locations at different times.

8 Q To your knowledge, has any
9 supervisor ever eliminated material from a
10 report prepared by a zone and assessment
11 unit officer because it was not related to
12 potential, unlawful activity of terrorism?

13 Q To my knowledge, I am not aware
14 of that, but I can't say that that hasn't
15 happened. I'm not aware of that.

16 Q Do the supervisors in the Zone
17 Assessment Unit have any instructions based
18 on relating to section 882 of the Handschu
19 Guidelines?

20 In other words, let me ask it in
21 a different way. Are the supervisors
22 instructed to look out for the retention of
23 material, retention of information that's
24 not related to potential unlawful or
25 terrorist activity?

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2 A The supervisors are aware of the
3 procedure, the 882 and they're aware of the
4 Handschu Guidelines in 882.

5 We have a review process that we
6 use where the reports get looked at, and if
7 there's an issue related to that, it would
8 be addressed in a training method.

9 Q Who conducts the review in that
10 review process?

11 A One of the people that review it
12 is our legal staff.

13 Q That's the legal staff of the
14 Intelligence Division?

15 A Yes.

16 Q Are they civilian employees or
17 members of the force?

18 A Both.

19 Q To your knowledge, has the legal
20 staff of the Intelligence Division ever
21 directed or caused the removal of material
22 from a Zone Assessment Unit report because
23 it was not related to potential unlawful or
24 terrorist activity?

25 A The review process that they have

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is done after the report is prepared. So,
if they seen something that they felt should
be addressed, it would be addressed in a
training issue. I can't tell you that the
report would be changed. We have not
changed reports once they are finalized.

MR. EISENSTEIN: I have no
further questions. Thank you for your
patience and I'm done.

(At 5:30 p.m., the Examination
of this Witness was concluded.)

THOMAS GALATI

Subscribed and sworn to before me this _____
day of _____, .

NOTARY PUBLIC

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E X H I B I T S

PLAINTIFF'S EXHIBITS:

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I N D E X

EXAMINATION BY

PAGE

Mr. Eisenstein

10-129

INFORMATION AND/OR DOCUMENTS REQUESTED

INFORMATION AND/OR DOCUMENTS

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF KINGS)

AYELET RUSSO, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 19th day of July, 2012.

AYELET RUSSO

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ERRATA SHEET

PAGE/LINE

CORRECTION
